## CCRB INVESTIGATIVE RECOMMENDATION

		LSIIGAIIVE		121.		•			
Investigator:		Team:	CCRB Case #:	<b>1</b>	Force	☐ Di	iscourt.		U.S.
Rolando Vasquez		Squad #13	202002825		Abuse	□ O.	.L.	$\overline{\checkmark}$	Injury
Incident Date(s)		Location of Incident:	•	Pı	recinct:	18 Mc	o. SOL	F	EO SOL
Monday, 04/20/2020 10:48 PM, 1 04/20/2020 10:49 PM	Monday,	Howard Avenue and St Park Place	terling Place; 1714		73	10/20	0/2021	5	/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:	: ]	Date/Time	Receive	d at CCF	RB	
Tue, 04/21/2020 4:21 PM		CCRB	On-line website		Tue, 04/21	/2020 4	1:21 PM		
Complainant/Victim	Туре	Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. Officers									
2. POF Nicki Canady	02568	960316	PBBN SU						
3. SGT Gabriel Cuevas	02226	945633	PBBN SU						
4. POM Brian Doyle	2068	954752	079 DET						
5. DTS Reginald Smith	4482	951278	C/SCENE						
6. PO Joseph Ardolino	19087	958262	PBBN SU PST						
Officer(s)	Allegatio	on			Inve	stigator	r Recon	ımeı	ndation
A.POF Nicki Canady		At Howard Avenue and S fficer Nicki Canady stop		oklyı	n,				
B.POF Nicki Canady		at Howard Avenue and S fficer Nicki Canady frisk		oklyı	n,				
C.POF Nicki Canady		At Howard Avenue and S fficer Nicki Canady stop		oklyı	n,				
D.SGT Gabriel Cuevas		At Howard Avenue and S Gabriel Cuevas stopped		okly	n,				
E.DTS Reginald Smith		At Howard Avenue and S e Reginald Smith stoppe		oklyı	n,				
F.POF Nicki Canady	Police O	At Howard Avenue and S fficer Nicki Canady faile ssiness card.							
G.DTS Reginald Smith		utside 1714 Park Place i Smith struck <sup>§ 87(2)(b)</sup>	n Brooklyn, Detecti with a vehic						
H.DTS Reginald Smith		utside 1714 Park Place i Smith pointed his gun a		ve					
I.DTS Reginald Smith		Outside 1714 Park Place Smith threatened \$\frac{\strace{87(2)(b)}}{2}			of				
J.DTS Reginald Smith		utside 1714 Park Place i Smith used physical for		ve					
K.DTS Reginald Smith		utside 1714 Park Place i Smith used physical for		ve					

Officer(s)	Allegation	Investigator Recommendation
L.DTS Reginald Smith	Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith restricted street by Ser(2)(b) s breathing.	
M.DTS Reginald Smith	Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith used physical force against \$87(2)(b)	
N.POF Nicki Canady	Force: Outside 1714 Park Place in Brooklyn, Police Officer Nicki Canady used physical force against § 87(2)(b)	
O.POF Nicki Canady	Force: Outside 1714 Park Place in Brooklyn, Police Officer Nicki Canady restricted services breathing.	
P. Officers	Force: Outside 1714 Park Place in Brooklyn, officers restricted breathing.	
Q.POF Nicki Canady	Abuse: Outside 1714 Park Place in Brooklyn, Police Officer Nicki Canady frisked \$87(2)(b)	
R.PO Joseph Ardolino	Abuse: Outside 1714 Park Place in Brooklyn, Police Officer Joseph Ardolino frisked § 87(2)(6)	
S.PO Joseph Ardolino	Abuse: Outside 1714 Park Place in Brooklyn, Police Officer Joseph Ardolino searched \$87(2)(b)	
T.POF Nicki Canady	Abuse: Outside 1714 Park Place in Brooklyn, Police Officer Nicki Canady searched \$87(2)(b)	
U.SGT Gabriel Cuevas	Abuse: Outside 1714 Park Place in Brooklyn, Sergeant Gabriel Cuevas frisked \$87(2)(b)	
V.POF Nicki Canady	Abuse: Outside 1714 Park Place in Brooklyn, Police Officer Nicki Canady did not obtain medical treatment for \$87(2)(6)	
W.SGT Gabriel Cuevas	Abuse: Outside 1714 Park Place in Brooklyn, Sergeant Gabriel Cuevas did not obtain medical treatment for \$87(2)(b)	
X.DTS Reginald Smith	Abuse: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith did not obtain medical treatment for \$87(2)(b)	
Y.POM Brian Doyle	Abuse: Outside 1714 Park Place in Brooklyn, Police Officer Brian Doyle did not obtain medical treatment for \$87(2)(b)	
Z.SGT Gabriel Cuevas	Abuse: Outside 1714 Park Place in Brooklyn, Sergeant Gabriel Cuevas failed to provide \$87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		
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CCPR Confidential	CCPR C250 # 202002825	Page 2

## Case Summary

This complaint was filed on April 21, 2020, via the CCRB website by an unidentified reporting non-witness who said she was the mother of one of the alleged victims, second victim remains unidentified.

On April 20, 2020, at about 10:48 p.m., was walking in the vicinity of Howard Avenue and Sterling Place in Brooklyn, when PO Nicki Canady of Patrol Borough Brooklyn North
Anti-Crime stopped (Allegation A: Abuse of Authority, and frisked an
unidentified individual (Allegation B: Abuse of Authority, § 87(2)(2)
from the encounter and was pursued and stopped by PO Canady, Det. Reginald Smith, and Sgt.
Gabriel Cuevas, all of Patrol Borough Brooklyn North Anti-Crime (Allegations C-E: Abuse of
Authority, \$87(2)(2) ). PO Canady failed to provide the unidentified individual with a
business card (Allegation F: Abuse of Authority, In front of 1714 Park Place in
Brooklyn, Det. Smith, the driver of a police vehicle which pursued allegedly struck
with the police vehicle (Allegation G: Force: \$87(2)(9) Det. Smith
allegedly pointed his gun at \$87(2)(5) and threatened to shoot him (Allegation H: Force,
Allegation I: Abuse of Authority, Strong Det. Smith allegedly
performed a forcible take down of (Allegation J: Force: \$\frac{\xi}{2}
allegedly placed his knees upon back which restricted his breathing (Allegations K-
L: Force, Smith allegedly pushed head into the sidewalk
(Allegation M: Force, \$87(2)(g) PO Canady placed her knees atop \$87(2)(b) back
(Allegation N: Force, \$87(2)(e) and allegedly restricted breathing
(Allegation O: Force: \$87(2)(e) breathing
(Allegation P: Force: § 87(2)(9) . PO Canady frisked § 87(2)(9) (Allegation Q: Abuse of
Authority, STONE . PO Joseph Ardolino, of Patrol Borough Brooklyn North Anti-Crime,
frisked (Allegation R: Abuse of Authority, \$87(2)(2) PO Ardolino and PO
Canady searched (Allegations S-T: Abuse of Authority, \$87(2)(9) Sgt.
Cuevas instructed PO Ardolino to frisk  (Allegation U: Abuse of Authority,  [SWO]  PO Canada Set Cuevas Det Smith and PO Prior Device also of Potrol Porough
. PO Canady, Sgi. Cuevas, Det. Simili, and PO Brian Doyle, also of Patrol Bolough
Brooklyn North Anti-Crime, did not obtain medical treatment for (Allegations V-Y,
Abuse of Authority, S7(2)(9)  Sgt. Cuevas allegedly failed to provide a business card to \$7(2)  (Allegetian 7: Abuse of Authority, \$7(2)(9)  \$7(2)(9) \$7(2)(9) \$7(4)(9)
(Allegation Z: Abuse of Authority; § \$7(2)(g)
No arrest

or summons resulted from this incident.

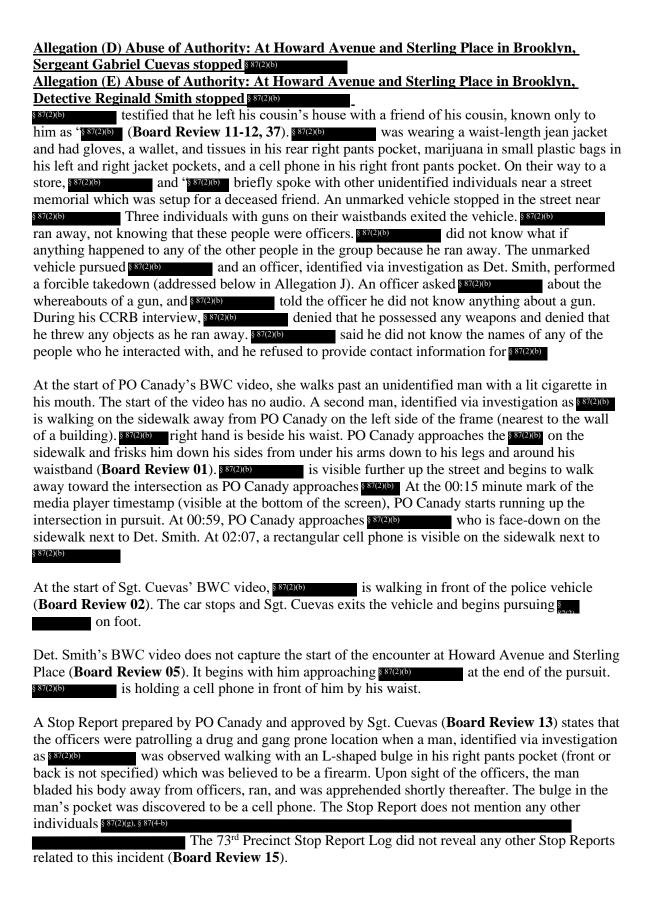
Review 01-05) and summarized in IA #94 (Board Review 06). Cell phone video was obtained from SST(2)(5) These videos are attached to IA #46-48 (Board Review 07-09) and summarized in IA #193 (Board Review 10). There is no other video evidence in this case.

## Findings and Recommendations

Allegation (A) Abuse of Authority: At Howard Avenue and Sterling Place in Brooklyn, Police Officer Nicki Canady stopped an individual.

Allegation (B) Abuse of Authority: At Howard Avenue and Sterling Place in Brooklyn, Police Officer Nicki Canady frisked an individual.

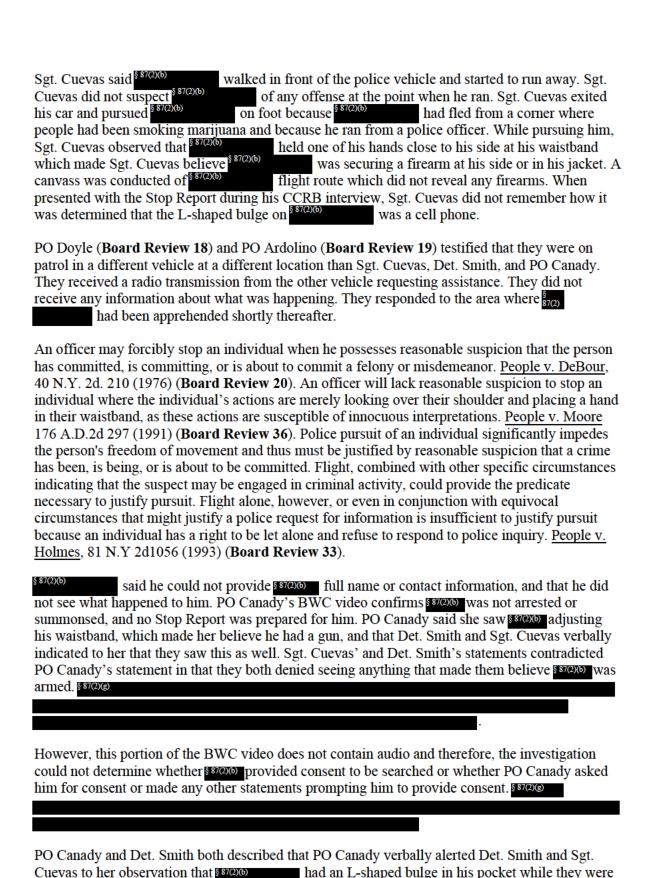
Allegation (C) Abuse of Authority: At Howard Avenue and Sterling Place in Brooklyn, Police Officer Nicki Canady stopped \$3700



PO Canady testified that she was on patrol and was seated in the rear driver's side seat of the police vehicle (**Board Review 14**). To her left she observed two men, § \$7(2)(b) and § \$7(2)(b) walking on the sidewalk. The two men appeared nervous in that they looked back toward the police vehicle. placed his right hand in his waistband, which made PO Canady suspect he was armed, because firearms are often held in a person's waistband. Separately, she observed that had an L-shaped bulge in his right front pant pocket which she believed was a firearm based on the shape. Sgt. Cuevas and Det. Smith also made comments in the vehicle about seeing 887(2)(b) adjusting his waistband and 887(2)(b) having an L-shaped bulge. Aside from walking and looking back, the two men were not doing anything else. There were other individuals nearby who were smoking but they did not appear to be with \$87(2)(b) and § 87(2)(b) PO Canady exited the police vehicle by herself and approached the two men. She said, "It's police," to which \$87(2)(6) said, "I don't have anything, you can search me." \$57(2)(5) continued walking up the street. PO Canady frisked \$87(2)(b) down the side of his body, waistband, and near his groin and did not detect a weapon. PO Canady's attention strayed from \$87(2)(6) because she was focused on \$87(2)(6) She heard the screech of tires and saw that \$87(2)(6) was running away and the police vehicle was in pursuit. PO Canady followed on foot. PO Canady did not have sight of during the entire pursuit but during the time she saw him, she did not see him throw anything. Det. Smith gained physical control of him on Park Place and PO Canady caught up to them. A canvass was conducted of the route of \$87(2)(b) flight which did not produce a firearm. PO Canady did not know how it was determined the bulge on §87(2)(6) cell phone (as reflected on the Stop Report). She believed Sgt. Cuevas informed her that a phone was found on him.

Det. Smith testified that while driving on patrol, he observed a group of three to four individuals walking on the sidewalk next to them (**Board Review 17**). The individuals were not doing anything except walking and Det. Smith did not recall if he detected an odor of marijuana. PO Canady said she saw that say that had an L-shaped bulge in his pocket. Det. Smith looked and saw that there was an L-shaped bulge in say front right pants pocket. Det Smith did not observe anything that made him think any of the other individuals were armed and did not say in his CCRB interview if PO Canady said anything about any of the other individuals. PO Canady exited the vehicle. Det. Smith did not exit the vehicle because in case someone ran, he was the operator of the vehicle and would give chase. Say(2)(b) fled and Det. Smith followed him in the vehicle. Det. Smith did not see say(2)(b) throw any objects, though he was also focused on driving safely during the pursuit. Say(2)(b) was apprehended shortly thereafter and no weapon was found on him. A canvass of his flight route did not produce any weapons.

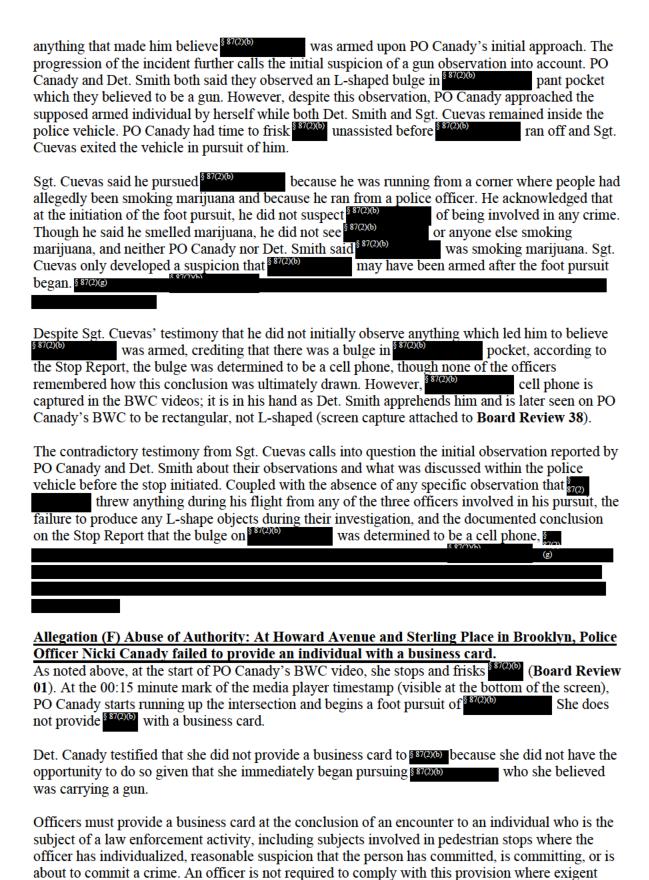
Sgt. Cuevas' testimony differed in that he said PO Canady said she observed a group of people drinking and smoking on the sidewalk next to them (**Board Review 16**). PO Canady did not say anything about having observed an L-shaped bulge on anyone while in the car (though she did inform Sgt. Cuevas of this observation at the conclusion of the stop and at that time, she said she observed L-shaped bulges on two individuals). From about 15-20 feet away, while seated in the front passenger seat of the vehicle and looking toward the sidewalk on the driver's side of the car, Sgt. Cuevas observed a group of people standing on the sidewalk and smelled marijuana but he did not see anyone doing anything except standing. PO Canady exited the vehicle and spoke to St. Cuevas did not hear what was said between PO Canady and st. Sqt. Cuevas and he did not see her frisk him. Sgt. Cuevas said there was no reason he remained in his vehicle after PO Canady approached. Sgt. Cuevas observed the encounter and did not see anything that made him suspect any of the individuals were armed. Sgt. Cuevas did not see anyone adjusting their waistband and did not recall if any of the other officers in the car said anything about anyone adjusting their waistband.



CCRB Case # 202002825

gun. However, Sgt. Cuevas' statement contradicted this in that he said PO Canady only alerted him to her observation of an L-shaped bulge at the conclusion of the encounter. He said he did not see

still inside the police vehicle, and that this is what led them to believe \$87(2)(6)

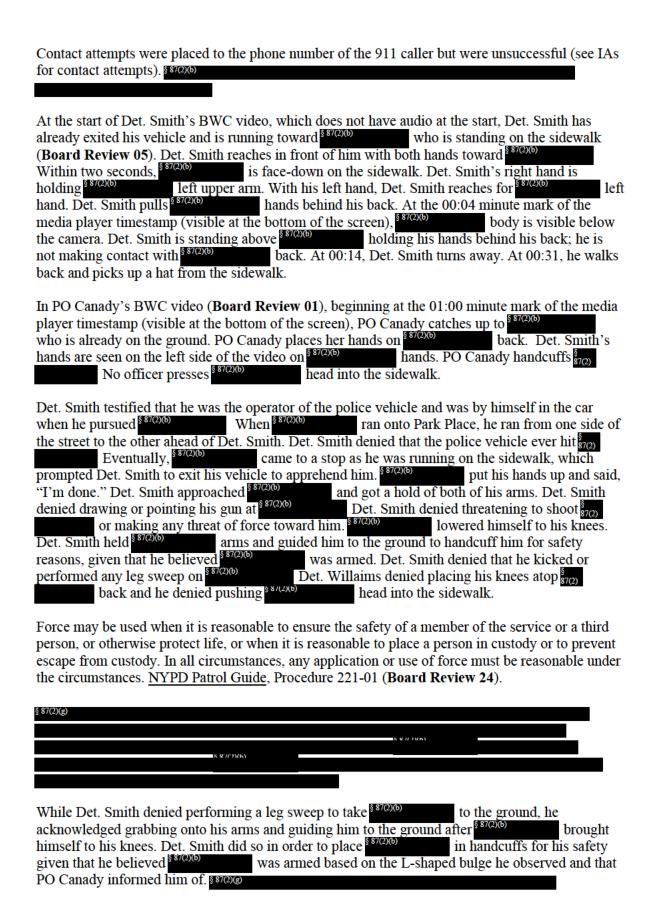


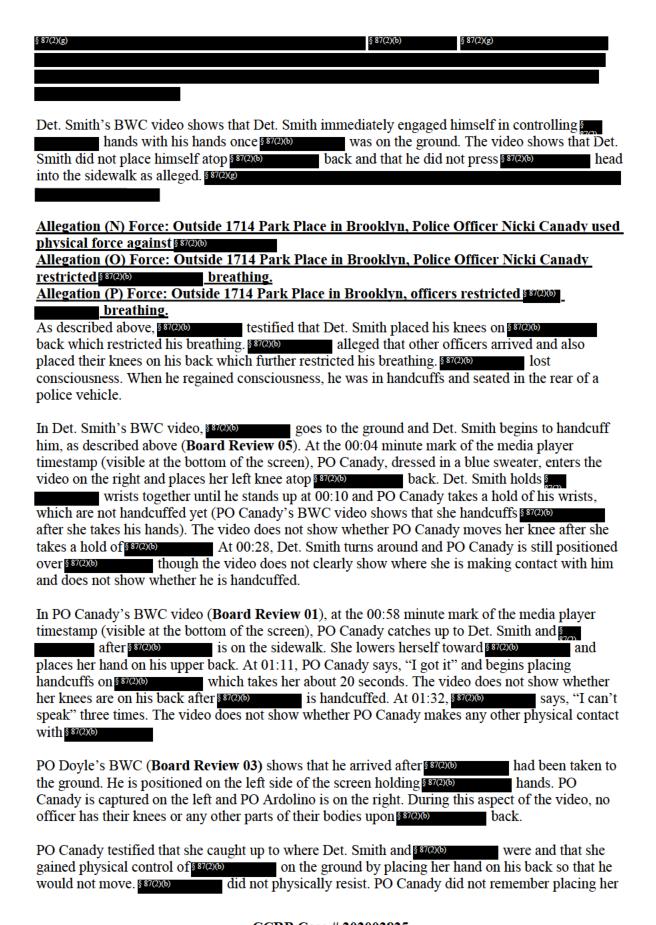
**CCRB Case # 202002825** 

circumstances require immediate action by the officer. <u>NYC Administrative Code</u>, Section 14-174 (**Board Review 34**).

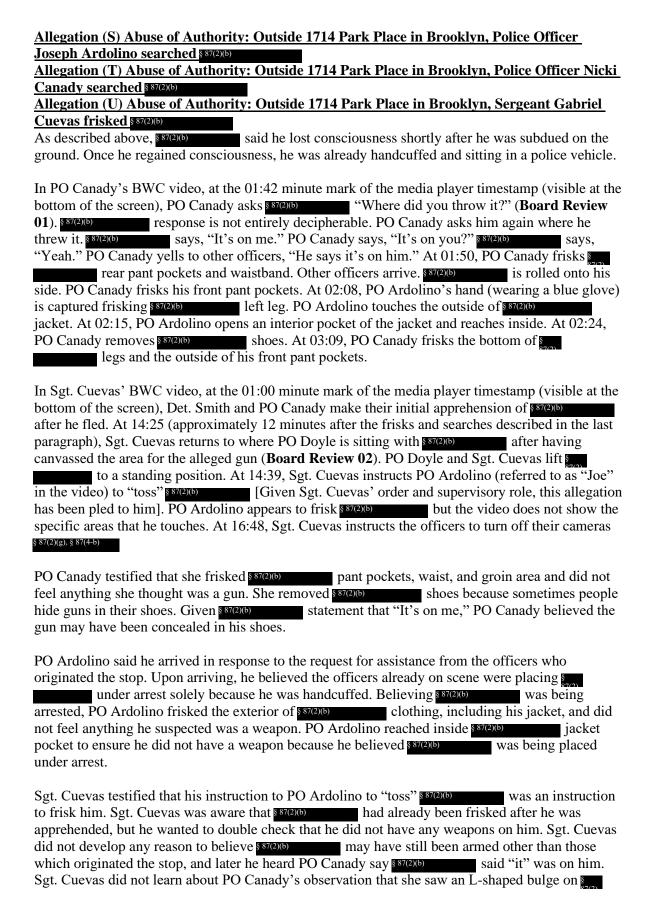
§ 87(2)(g)
Allegation (G) Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith struck
with a vehicle.
Allegation (H) Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith pointed
his gun at \$87(2)(b)
Allegation (I) Abuse of Authority: Outside 1714 Park Place in Brooklyn, Detective Reginald
Smith threatened [587(2)(6)] with the use of force.
Allegation (J) Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith used
physical force against §87(2)(b)
Allegation (K) Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith used
physical force against §87(2)(b)
Allegation (L) Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith
restricted § 87(2)(b) s breathing.
Allegation (M) Force: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith used
physical force against §87000
testified that he ran away and an unmarked vehicle followed him. At one point,
tried to run across the street and his left knee was struck by the front of the vehicle.
fell back onto the sidewalk onto his right knee and stood up. Det. Smith, identified via
investigation, exited the vehicle, pointed his gun at \$87000 and said, "I'll shoot you if you
run again." \$870,00 put his arms up. Det. Smith holstered his gun, ran toward \$870,00
and grabbed each of his wrists. Det. Smith used his leg to sweep \$87(2)(6) feet from under
him, causing \$87(2)(0) to fall to the ground. Det. Smith placed his knee on \$87(2)(0)
back which restricted serons breathing. Det. Smith put a hand on the back of
s head and pushed \$87(2)(0) head into the ground.
sought medical treatment at \$3000 Hospital the next morning (Board Review
sought medical treatment at sought medical treatment at sought medical personnel that he was approached by a group of
several unknown men who hit him, pushed him to the ground, and held him down with a knee.
said he was hit in the right side of his face. The records did not include any description of
having been struck by a vehicle. § \$7(2)(b) complained of pain to his right knee, his left ankle,
and his back. It was unclear to medical personnel whether \$87000 lost consciousness.
reported that he did not call the police but that his lawyer had been informed. A physical
examination revealed tenderness of his right knee, left ankle, and back, and no other injury. X-ray
scans were conducted which did not reveal any deformities. [87(2)(6)] was diagnosed with
acute pain of the right knee, left ankle and back, and was prescribed ibuprofen for pain. Upon
discharge, he was informed that the studies were negative, and he was advised to call to file a police
report. At that time, \$57(2)(0) informed medical personnel that his assaulters were police
officers.
V-1.1-V-1.0-1

Event documents revealed a 911 call from a male caller who reported that a man was struck by a police vehicle outside of 1710 Park Place. The 911 call originated at 11:09 p.m., approximately 21 minutes after the inception of the stop (according to the timestamps on the BWC paperwork received from NYPD Legal) (Board Review 23).

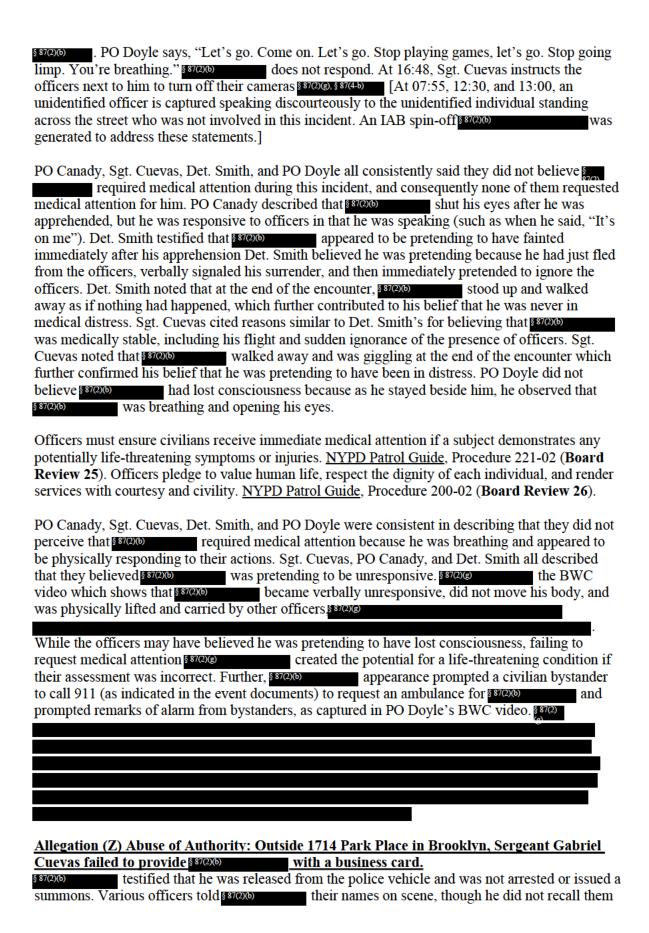




knees upon his back and seeing the video did not refresh her recollection of having done so or how long she was in that position. §\$7(2)(6) did not appear to have difficulty breathing during the incident. Det. Smith, PO Doyle, PO Ardolino, and Sgt. Cuevas did not see PO Canady or any other officer place their knees on save back and they denied doing so themselves. did not appear to have difficulty breathing during the incident. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (Board Review 24). Officers shall apply no more than the reasonable force necessary to gain control. Officers shall avoid actions which may result in chest compression, such as sitting, kneeling, or standing on a subject's chest or back, thereby reducing the subject's ability to breathe. NYPD Patrol Guide, Procedure 221-02 (Board Review 25) PO Canady said she lost after he fled, and by the time she caught up to him, Det. Smith was by wrists, and attempting to place \$87(2)(0) in handcuffs. Given himself, holding § 87(2)(b) PO Canady's lack of knowledge regarding what may have transpired between when she lost sight and when she caught up to him again, and the safety interest in getting handcuffed as quickly as possible \$87(2)@ assist her fellow officer in handcuffing \$87(2)(b) by placing her knee against his back to hold him in place until the handcuffs were secured. The medical records from \$37000 Hospital did not include any complaint from \$37000 about difficulty breathing or loss of consciousness during the incident, though they did include a complaint of back pain. The records revealed tenderness to \$370,000 back but did not reflect any other injuries. Based on the video footage the investigation could not determine how long PO Canady remained atop whether she repositioned her knee after whether she repositioned her knee after handcuffed, and if her actions caused his breathing to become restricted. §87(2)(9) As described above, Det. Smith's BWC video shows that he did not place his knee atop ■ back. PO Doyle's BWC video shows that he and PO Ardolino were the only other officers to make physical contact with \$87(2)(0) while he was on the ground and this was when they arrived to assist PO Canady. The video shows that neither they nor any other officer aside from PO Canady ever placed their knees atop \$87(2)(6) back. \$87(2)(6) Allegation (Q) Abuse of Authority: Outside 1714 Park Place in Brooklyn, Police Officer Nicki Canady frisked § 87(2)(6) Allegation (R) Abuse of Authority: Outside 1714 Park Place in Brooklyn, Police Officer Joseph Ardolino frisked § 87(2)(6)



until the end of the encounter. \$87(2)(6) was still under investigation for the suspected gun because officers were still canvassing the area. PO Canady searched \$37(2)(b) by removing his shoes because when she asked "Where is it?," he said, "It's on me," which she believed was a verbal acknowledgement that he was armed. § 87(2)(g) PO Canady did not specify to \$87(2)(6) which "it" she response was not specific in describing that he had a weapon was referring to, and \$87(2)(6) on him, as opposed to any other item, such as the marijuana he informed the CCRB about or anything else. PO Ardolino said he frisked and searched \$87(2)(6) believing he was under arrest, though the only reason he believed this was because he was handcuffed. Sgt. Cuevas instructed PO Ardolino to frisk \$5000 because, despite having already been frisked and searched, Sgt. Cuevas wanted to double check that he was not armed. \$87(2)@ Allegation (V) Abuse of Authority: Outside 1714 Park Place in Brooklyn, Police Officer Nicki Canady did not obtain medical treatment for \$87(2)(6) Allegation (W) Abuse of Authority: Outside 1714 Park Place in Brooklyn, Sergeant Gabriel Cuevas did not obtain medical treatment for [87(2)(6) Allegation (X) Abuse of Authority: Outside 1714 Park Place in Brooklyn, Detective Reginald Smith did not obtain medical treatment for \$87(2)(b) Allegation (Y) Abuse of Authority: Outside 1714 Park Place in Brooklyn, Police Officer Brian Doyle did not obtain medical treatment for \$87(2)(b) As described above, \$37000 testified that he lost consciousness during the encounter as a result of officers placing their knees on his back. Upon regaining consciousness, he said he was in the back of a police vehicle. Sgt. Cuevas spoke with \$87000 about the whereabouts of the gun, which \$87000 denied he knew anything about. A fire truck and ambulance arrived. A firefighter and an EMT approached the police vehicle and second asked them for water and told them he was in pain due to the handcuffs. The firefighter and EMT told \$87000 could not help him and walked away without offering any assistance or administering any treatment. § \$7(2)(6) did not ask any officer for medical attention. The Event documents revealed a 911 call from a civilian who reported that \$87(2)(6) had been struck by a police vehicle and appeared to have a broken leg (Board Review 23). The Event documents did not reveal any request for medical treatment initiated by police officers. In PO Doyle's BWC video, starting at the 02:05 minute mark of the media player timestamp (visible at the bottom of the screen) PO Doyle lifts (87(2)(6)) into a seated position (Board Review 03). At 02:55, \$87(2)(6) torso slumps to the left as PO Doyle is holding him. At 03:10, PO Canady walks away and leaves PO Doyle holding \$87(2)(6) on the ground. remains motionless and silent while sitting with PO Doyle. At 06:50, an unidentified man is seen standing across the street from PO Doyle recording the encounter. The man says, "Why is he like that? Why you ain't calling an ambulance for him?" PO Doyle says, "He's breathing. Check his stomach." The man says, "You see him knocked out, call a fucking ambulance. Why you got him sitting here unconscious like that?" At 13:40, Sgt. Cuevas directs PO Doyle to pick up



at the time of his CCRB interview. seron was not offered and did not receive a business card from any officers.
The Stop Report prepared by PO Canady notes that was offered a business card which he refused.
The BWC videos ended before the conclusion of the encounter \$87(2)(2). §87(4-5) The available video does not capture whether a business card was ever offered to \$87(2)(5)
Of the officers who initiated the encounter with PO Canady and Det. Smith testified they did not provide with a business card. They were consistent in describing that they did not do so because upon returning from their canvass of the area, they observed Sgt. Cuevas speaking with a business card. Sgt. Cuevas offering a business card. Sgt. Cuevas testified that he offered success as a business card at the end of the encounter and that said, "Nah, I'm good," and did not take the business card.
§ 87(2)(g)
§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)
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§ 87(2)(g), § 87(4-b)			
3 57(=)(€), 3 67(4=0)			
	Civilian ar	nd Officer CCRB Histories	
• This is the	e first CCRB complaint to w		y (Board Review 30).
		rvice for six years and has been a su	
	ts and 42 allegations, one of	which was substantiated.	
0		§ 87(2)(g)	
a Dat Smit	h has been a member of ser	vice for 10 years and this is the firs	t CCDD complaint in
	is a subject.	vice for to years and this is the firs	і ССКВ сопіріанії пі
	5	rvice for 14 years and has been a su	ibiect in 18 CCRB
		which were substantiated. §87(2)(a)	
		Board substantiated stop, frisk, and	
		gt. Cuevas. The Board recommendo sed Command Discipline A.	ed Command
		Board substantiated frisk and search	allegations against Sot
		d Command Discipline B and the N	
	nand Discipline A.	1	1
		Board substantiated two frisk and tw	
		The Board recommended Command	l Discipline B, which
	YPD imposed.	rice for eight years and has been a s	ubject in five CCDD
		of which were substantiated. §87(2)(g)	ubject in five CCKB
Соттрини	is and 12 anegations, none	I which were substantiated.	
PO Ardol	ino has been a member-of-s	ervice for six years and has been a	subject in two CCRB
		of which were substantiated. §87(2)(g)	
	Mediation	, Civil, and Criminal Histories	
• This com	plaint was not suitable for m		
		k City Office of the Comptroller ha	s no record of a Notice
of Claim	being filed in regards to this	incident (Board Review 31).	
§ 87(2)(b)			
Squad: <u>13</u>			
Investigator:	Rolando Vasquez	SI Rolando Vasquez	3/10/2022
mvesugator.	Signature	Print Title & Name	Date

Squad Leader:	Laura Kastner	IM Laura Kastner	03/10/2022		
	Signature	Print Title & Name	Date		